

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------------------|---|--------------------|
| JOSIAH KUENZI, | : | NO. 08-3906 |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| | : | |
| CAPITAL ONE AUTO FINANCE, | : | |
| INC., et al. | : | |
| Defendant. | : | |

**DECLARATION OF DEVIN CHWASTYK IN SUPPORT OF DEFENDANT
CAPITAL ONE AUTO FINANCE'S OMNIBUS MOTION FOR SUMMARY JUDGMENT**

I, Devin Chwastyk, declare as follows:

1. I am an Associate of the law firm of McNees Wallace & Nurick LLC, counsel for Defendant Capital One Auto Finance, Inc. ("Capital One"). I submit this Declaration in support of Capital One's Omnibus Motion for Summary Judgment. I have personal knowledge of the matters set forth herein.

2. Affixed as exhibits to Capital One's Statement Of Facts In Support Of Its Omnibus Motion For Summary Judgment and to the supporting Affidavit Of Adams Yerger are true and correct copies of all documents referenced in the Statement Of Facts, Yerger Affidavit, and Brief In Support of Capital One's Omnibus Motion for Summary Judgment.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Devin Chwastyk
Devin Chwastyk

Dated: March 11, 2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of March, 2011, a true and correct copy of the foregoing document was served upon the following by the Court's electronic filing system:

Matthew B. Weisberg, Esq.
Prochniak & Weisberg P.C.
7 S. Morton Avenue
Morton, PA 19070
Counsel for Plaintiff

By /s/ Devin Chwastyk
Devin Chwastyk
Counsel for Defendant

Dated: March 11, 2011